S.B. CIVIL MISC. APPEAL NO.450/1994
(RSRTC & anr. Vs. Bhur Singh & ors.)

Date of Order :: 18.10.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.B.S.Bhati for the appellants
Mr.Ratan Singh for the respondents

This appeal has been preferred by the owners of the vehicle involved in the accident against the common award dated 10.02.1994 made by the Motor Accidents Claims Tribunal, Sojat insofar it relates to Claim Case No.21/1993 whereby the Tribunal has allowed compensation in the sum of Rs.1,62,000/- to the dependents of the victim Banney Singh, about 50 years of age, after taking his monthly income at Rs.1,400/- and contribution to the dependents at Rs.900/- with application of multiplier of 15 to the multiplicand of Rs.10,800/- but without awarding any amount towards non-pecuniary loss.

This appeal was admitted on 22.08.1994 while noticing the only contention sought to be raised on behalf of the appellant that while passing the award for compensation the Tribunal should have deducted the amount of Rs.25,000/-

which was deposited by the appellant No.1 towards no fault liability. This Court noticed thus:

> "It is contended by the counsel for the appellants that the only ground for admission is that while passing the award for compensation under the Motor Vehicles Act, the Tribunal should have deducted the amount of Rs.25,000/- which was deposited by appellant no.1 towards no fault liability.
>
> The appeal is admitted. Issue notice. P.F. and notices be filed within three days."

On the appeal being taken up for hearing and upon examination of record with reference to the limited point on which the appeal has been admitted, it is of course noticed that the Tribunal has made award aforesaid in the sum of Rs.1,62,000/- and has provided for apportionment of the award amount amongst the claimants but has not made specific order for adjustment of the amount in relation to no fault liability. However, the record nowhere reveals if at all any order for allowing interim compensation to the claimants under Section 140 of the Motor Vehicles Act was made by the Tribunal and if at all any such payment was made by the appellants to the claimants?

In the memo of appeal also, the appellants have suggested a ground in that relation that an order for

deduction of the amount already paid under the head of no fault liability ought to have been made as required by law but without any factual foundation as to when such order was made and as to whether the appellants ever made payment of such amount towards interim compensation? The ground sought to be urged in this appeal, therefore, remains baseless and incompatible with the record and cannot be countenanced.

Even otherwise, the award made by the Tribunal remains rather on the lower side and in the overall circumstances of the case calls for no interference.

In the aforesaid view of the matter, this appeal turns out to be bereft of substance and is, therefore, dismissed. No costs.

(DINESH MAHESHWARI), J.

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